

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

JASON FOSTER

)
)
)
)
)

No. 07 CR 772
Judge Virginia M. Kendall

**GOVERNMENT'S NOTICE OF INTENTION TO SEEK
STATUTORY ENHANCED PENALTIES**

The UNITED STATES OF AMERICA, by its attorney, PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, pursuant to Title 21, United States Code, Section 851, hereby gives notice to defendant Jason Foster of the government's intention to seek enhanced penalties pursuant to statute in the event that Jason Foster is convicted in this case.

I. PENALTIES FOR VIOLATIONS OF 21 U.S.C. § 841(a)(1)

Under 21 U.S.C. § 841(a)(1) and (b)(1)(B)(iii), a defendant convicted of knowingly and intentionally distributing a controlled substance, namely, in excess of 5 grams of mixtures containing cocaine base, must be sentenced to a minimum of 5 years' incarceration and a minimum 4 years' supervised release and faces a maximum sentence of 40 years' imprisonment. If the defendant had at least one prior felony conviction for a drug offense at the time he committed the offense described above, then under sections 841(b)(1)(B), the applicable penalties for defendant's offense increase as follows:

If the defendant has a prior conviction for a felony drug offense at the time he committed the instant offense, he shall be sentenced to a term of not less than 10 years' imprisonment and a term of not less than 8 years' supervised release, and faces a maximum sentence of life incarceration and a maximum fine of \$4,000,000.

Under 21 U.S.C. § 841(a)(1) and (b)(1)(A)(iii), a defendant convicted of knowingly and intentionally distributing a controlled substance, namely, in excess of 50 grams of mixtures containing cocaine base, must be sentenced to a minimum of 10 years' incarceration and a minimum 5 years' supervised release and faces a maximum sentence of life imprisonment. If the defendant

had at least one prior felony conviction for a drug offense at the time he committed the offense described above, then under sections 841(b)(1)(A) and 846, the applicable penalties for defendant's offense increase as follows:

If the defendant has a prior conviction for a felony drug offense at the time he committed the instant offense, he shall be sentenced to a term of not less than 20 years' imprisonment and a term of not less than 8 years' supervised release, and faces a maximum sentence of life incarceration and a maximum fine of \$8,000,000.

If the defendant has two or more convictions for felony drug offense at the time he committed the instant offense, he shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence.

II. THE INSTANT CASE AND THE DEFENDANT'S CRIMINAL HISTORY

The government intends to show that the offenses with which Jason Foster was charged in the instant case involved in excess of the following narcotic drugs: 5 grams or more of mixtures containing cocaine base (Count I); 50 grams or more of mixtures containing cocaine base (Count II).

Further, the defendant has the following convictions on which the government may rely, pursuant to the above-listed statutory provisions, in seeking an enhanced sentence for the defendant:

1. On December 18, 2003, in the Circuit Court of Kane County, in case no. 03 CF 1624, the defendant was convicted of unlawful possession of a controlled substance with intent to deliver, for which he received a sentence of 5 years' incarceration. A certified copy of conviction is attached hereto as Exhibit A.

2. On December 19, 2003, in the Circuit Court of DeKalb County, in case no. 03 CF 283, the defendant was convicted of unlawful possession of a controlled substance with intent to deliver, for which he received a sentence of 4 years' incarceration. A certified copy of conviction is attached hereto as Exhibit B.

Respectfully submitted,

PATRICK J. FITZGERALD
United States Attorney

BY: /s/ Bethany K. Biesenthal
BETHANY K. BIESENTHAL
Assistant United States Attorney
219 S. Dearborn St.
Chicago, Illinois 60604
(312) 886-7629

CERTIFICATE OF SERVICE

The undersigned Assistant United States Attorney hereby certifies that the following document:

Government's Notice of Intention to Seek Statutory Enhanced Penalties

was served on January 7, 2008, in accordance with FED. R. CRIM. P. 49, FED. R. CIV. P. 5, LR 5.5, and the General Order on Electronic Case Filing (ECF) pursuant to the district court's ECF system as to ECF filers, if any.

/s Bethany K. Biesenthal
BETHANY K. BIESENTHAL
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois
(312) 886-7629

ATTACHMENT A

Case No. 03 of 1624

R 26665

R 26665

20

By Debra Suller #107
Deputy Clerk

ATTACHMENT B

R26665

DEKALB COUNTY, ILLINOIS

Case No. 03 CF 283

PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff

-VS-

Jason Foster

Defendant

Judge	RS	Pltf. Atty.	A.J.	Ct. Reporter:
Clerk		Deft. Atty.	B.S. FILLIAM	

IN OPEN COURT

Attest

Maurice A. Jones
Clerk of the Circuit Court

JUDGEMENT ORDER

Illinois Department of Corrections

DEC 19 2003

Crime for which Defendant Convicted:

Unlawful Poss. of Contr. Substance w/ Intent
to Deliver (Class One Felony)
Chapter and Section:

720 ILCS 1 § 570/401(C)(2)

Credit for Time Served:

[X] DeKalb County Jail 06/11/03 - 06/14/03
4 day(s) month(s)

[] to be determined by Sheriff

[X] Other Credit:

Kane County Jail
10/20/03 - 12/19/03 (type/place/agency)
day(s) month(s)

Costs of these proceedings:

Fine: 4 costs

Circuit Clerk's Costs:

Restitution:

Drug Fine

Lab Fee:

Trauma Fee:

Drug Assessment Fee:

Total Due \$ 250.00

Payment Status:

Sentence of the Court:

day(s) month(s) 4 year(s)

(if applicable)

[X] Concurrent [] Consecutive with Case Number(s)

Kane County Case Number 03 CF 1624

THE COURT Being advised in the premises:

IT IS HEREBY ORDERED that the
Defendant named herein is guilty of the crime set forth
in this case; and,

IT IS FURTHER ORDERED that the
Defendant be given credit for such time served as
determined by the Court; and, that the Defendant pay
all costs of these proceedings.

NOW, THEREFORE, it is Ordered,
Adjudged and Decreed that the Defendant be sentenced
to the Illinois Department of Corrections for the crime
he/she stands convicted, for a term of days, months, or
years as set forth herein; and,

FURTHER, that the Defendant be taken from
the bar of this Court to the DeKalb County Jail, and
from there, by the Sheriff of DeKalb County, to the
nearest reception and classification center of the Illinois
Department of Corrections, and the Illinois Department
of Corrections is hereby required and commanded to
take the body of the defendant and confine him/her in a
Penitentiary, according to law, from and after delivery
thereof until discharged according to law, provided
such term of imprisonment shall be not less than nor
more than the term of days, months, or years for which
the Defendant stands convicted.

Date: 12/19/03

Enter:

Judge